

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

3:12-CR-00081-LRH-VPC

V.

ANTONIO SERVIDIO,

Defendant.

## ORDER

Before the Court is Third Party Claimant XYZ Real Estate, LLC’s (“Claimant”) Claim Asserting Interest and Contesting Forfeiture. Doc. #42.<sup>1</sup> Also before the Court is the United States of America’s (“Government”) Motion to Strike Claimant’s Claim Asserting Interest and Contesting Forfeiture. Doc. #43. Claimant filed an Opposition to the Government’s Motion to Strike (Doc. #55), to which the Government replied (Doc. #58).

The Court has reviewed the relevant pleadings on file in this matter and finds that Claimant's Claim Asserting Interest and Contesting Forfeiture is not properly before the Court at this time. The Government is seeking criminal forfeiture of certain property pursuant to 18 U.S.C. § 982(a)(2) and 31 U.S.C. § 5317(c), both of which incorporate the criminal forfeiture procedures set forth in 21 U.S.C. § 853. Section 853(k) expressly bars third parties claiming an interest in property subject to criminal forfeiture from intervening in the criminal proceeding.

<sup>1</sup> Refers to the Court's docket entry number.

1 Instead, section 853(n) specifically provides the exclusive process by which third-party claimants  
2 may vindicate their asserted interest in forfeited property. *See United States v. Lazarenko*, 476 F.3d  
3 642, 648 (9th Cir. 2007) (“Section 853(n) provides the process for vindicating a third party’s  
4 interests in forfeited property. The law appears settled that an ancillary proceeding constitutes the  
5 only avenue for a third party claiming an interest in seized property.”). Accordingly, the Court  
6 finds that Claimant must comply with the procedures set forth in section 853. In particular,  
7 Claimant must await the ancillary proceeding to properly assert an interest in the property subject to  
8 criminal forfeiture in this case. The Government’s Motion to Strike is granted.

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10 IT IS THEREFORE ORDERED that the Government’s Motion to Strike (Doc. #43) is  
11 GRANTED.

12 IT IS FURTHER ORDERED that Claimant’s Claim Asserting Interest and Contesting  
13 Forfeiture (Doc. #42) shall be stricken from the record.

14 IT IS SO ORDERED.

15 DATED this 17th day of March, 2014.

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19 LARRY R. HICKS  
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21 UNITED STATES DISTRICT JUDGE  
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